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BOOK REVIEWS.

THE LAW OF AGENCY. Including the Law of Principal and Agent, and the Law of Master and Servant. By Ernest W. Huffcut, Professor of Law in the Cornell University College of Law. Second Edition, Revised and Enlarged. Boston: Little, Brown & Company. 1901. 1 Volume, pp. li, 406. 8 vo. Buckram, \$3 *net*; sheep, \$3.50 *net*.

Messrs. Little, Brown & Co., have had a singularly fortunate experience with their now almost classic "Students' Series" of text books—if the term classic may be applied to what is new and essentially modern. Prof. Huffcut's work on Agency forms one of the strongest of this series. The first edition was highly commended in a previous review in the REGISTER. The work is considerably enlarged in the new edition. The subject is treated in two natural divisions—Master and Servant, and Principal and Agent. Under the former title are treated the rights and liabilities of employer and employee as between themselves; and under the latter, the relations between the one or the other, or both, and third persons. The author's style is terse, but strikingly lucid. His terminology is scientifically accurate, and his propositions are as clean-cut as a cameo. We know of no book on Agency in which one may obtain so accurate a knowledge of the elementary principles, and in such brief and pleasing form, as in the volume under review.

To the author's list of exceptions to the doctrine of non-liability of the employer for the negligence of an independent contractor, he might well have added the case of *legal duty*, without confining it to a statutory duty (sec. 222). For instance, a municipal corporation cannot escape its common law duty (common law, as held generally outside of the New England States) of keeping its streets in reasonably safe condition for public travel, by assigning the duty to an independent contractor. 2 Dillon, Munic. Corp. (4th ed.) 1027-1031. Nor can an employer ordinarily evade his non-assignable (common law) duties with respect to the safety of the servant, by employing an independent contractor—a doctrine elsewhere announced in the text (sec. 276), though there apparently restricted to the assignment of such duties to other *servants*. Our statement as to the law here is made with apologies to the Supreme Court of Appeals of Virginia, which held, in *N. & W. R. Co. v. Stevens*, 97 Va. 631, that a railroad company might thus escape liability for injury to its fireman, due to the fall of a defective bridge, which was under construction by an independent contractor, whose negligence caused the accident.

Some exception might be taken also to the statement under the doctrine of notice to agent as notice to principal, that ". . . a principal is not bound by notice acquired by his agent in a transaction where the agent is acting adversely to his principal, or has colluded with a third person to defraud his principal." [Sec. 146, (2).] This is undoubtedly the general rule, but there is an important qualification—the omission of which is possibly excusable in an elementary text book—that although the agent be acting adversely to his principal, yet if he be the sole representative of the principal in the transaction, so that if the principal claim the benefit of the transaction he must claim through

the agent as his representative, then the knowledge of the agent does affect the principal, where the rights of innocent third persons are involved. If, for example, the cashier of a bank should himself, as cashier, and on behalf of the bank, discount on his own behalf a promissory note of which he was payee, knowing of an equity in favor of the maker, such knowledge would be imputed to the bank, in an action against the defrauded maker. So, if the same cashier, short in his accounts with the bank, should embezzle the funds of another corporation of which he was treasurer, and thus make good his shortage—he alone acting for the bank—clearly his knowledge of the source of the funds would be imputed to the bank. See *Atlantic etc. Mills v. Indian Orchard Mills*, 147 Mass. 268; *Bank of New Milford v. Town of New Milford*, 36 Conn. 93.

CYCLOPEDIA OF LAW AND PROCEDURE. Edited by William Mack and Howard P. Nash. New York. The American Law Book Company. 1901. Volumes I. and II. "*A to Appeal and Error.*"

There are before us the first two volumes of this new candidate for public favor in the field of Law Encyclopedias. We have examined the volumes with some care—beginning our examination with the conviction that the needs of the profession were already met by the American and English Encyclopedias of Law and of Pleading and Practice, and with the determination not, by any ill-considered commendation of ours, to encourage the circulation of another expensive work of this sort. The character of the matter of these two volumes has impressed us most favorably. Aside from the names of distinguished authors and editors, attached to many of the leading articles, the work itself indicates that other than 'prentice hands are engaged upon it, and is most excellent. A comprehensive and microscopic search of the reports is suggested by the marvellous wealth of citation. The makers have naturally had the advantage of the pioneer labor done on other encyclopedias and digests, and have legitimately profited by it. Where the American and English Encyclopedia and the Century Digest—the latter published, we believe, since the earlier volumes of the American and English were issued—have cited "all the authorities," it becomes an easier task for the newer rival to also publish "all the authorities," and some more besides. The work under review is, therefore, fuller in matter and richer in authority than its predecessor and chief rival—as the third edition of this rival will, in these respects, excel the present work, or as Stanley's exploration of Africa was more complete than Livingstone's, though the latter blazed out the way and made the former's expedition possible.

The new Encyclopedia exhibits a decided advantage in treating the law of each subject—rights and remedies—as a whole, under a single title. The substantive and remedial are often too closely interwoven for separate treatment, but, even where possible, the separation retards rapid investigation, to say nothing of the necessarily increased expense.

The plan by which it is proposed to keep the work up-to-date without new editions, by issuing annual annotations, seems a decided improvement, and will commend itself to the profession as convenient and economical.